IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8821 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE KUNDAN SINGH

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

INDIA DETERGENT

Versus

STATE OF GUJARAT

Appearance:

MR ISHVERLAL J NAIK for Petitioner

NOTICE SERVED BY DS for Respondent No. 1, 3

MR RK MISHRA for Respondent No. 2

CORAM : MR.JUSTICE KUNDAN SINGH

Date of decision: 02/05/2001

ORAL JUDGEMENT

Rule.

2. This petition has been preferred by the petitioner for a direction to the concerned authority of the respondents to allot to the petitioner a better,

bigger and suitable industrial or commercial plot of petitioner's choice and to charge the price of the industrial or commercial plot at the said old rate which was prevailing at the time of petitioner's application for allotment of plot and not to charge the the petitioner's price of the industrial or commercial plot at the presently prevailing rate and to permit the petitioner to change the product other than the one for which the petitioner had earlier applied in the year 1990.

3. Learned counsel for the petitioner submitted that the agricultural land of the petitioner was acquired by the authority concerned and the petitioner has been deprived of his livelihood from the agricultural land which has been acquired by the respondent authority.

4. It is admitted in para 16 of the affidavit-in-reply filed by the respondent G.I.D.C. that the petitioner has given the reference for change of commercial plots. It is also stated in the affidavit-in-reply that the respondent GIDC had allotted industrial plot as per the policy of the respondent Corporation and the petitioner was required to deposit certain amount and that amount was deposited by the petitioner and the petitioner was required to execute necessary document vide letter dated 16-10-1999 and the petitioner was required to obtain "No Objection Certificate" from the Gujarat Pollution Control Board, Gandhinagar within 15 days as per the policy of the GIDC, failing which it will be deemed that the petitioner was not interested to take plot and hence, the matter will be closed. The petitioner applied for "No Objection Certificate" before the Gujarat Pollution Control Board, Gandhinagar. The Gujarat Pollution Control Board informed the petitioner that for such type of industrial unit "No Objection Certificate" of the Gujarat Pollution Control Board is not necessary and in case, even any such certificate is required, the petitioner will be required to execute certain document. By that time, the plot which was to be allotted, has been allotted to some other person as appears from the para 13 of the petition. The respondent GIDC has passed the impugned order dated 6/20-7-2000 Annexure-Q that the petitioner has not executed the form of agreement with the respondent Corporation within a specified period of 30 days from the date of allotment and the allotment of plot to the petitioner was cancelled and the amount paid by the petitioner forfeited. Hence, this petition has been filed for quashing the letter dated 6/20-7-2000 and for allotment commercial or industrial plot of land. It is

mentioned in the affidavit-in-reply that as per the policy of the respondent Corporation, selection of the plot is not entertained by the respondent Corporation and the respondent Corporation is not required to allot the plots as per the priority under its Rules and Regulations.

5. The contention of the learned counsel for the petitioner is that the petitioner is entitled to commercial or industrial plot at the old rate prescribed at the relevant time when earlier allotment of plot was made in favour of the petitioner and delay is attributed on the part of the respondent Corporation and not on the part of the petitioner. Learned counsel for the petitioner has relied on the judgment of this Court rendered in Special Civil Application No.5131/2000 wherein it is stated that there was uncontroverted position that the delay in allotment of plot was not attributed to the petitioner and it was considered just and proper to direct the respondents to allot another plot to the petitioner at the rate which was fixed in the allotment letter dated 3-2-1994.

6. In the facts and circumstances of this case, this petition is allowed and the impugned letter dated 6/20-7-2000 is hereby quashed and set aside and the respondents are directed to allot another plot to the petitioner at the price which was fixed in the allotment letter dated 4-10-1990 Annexure-B within a period of two months from the date of production of a certified copy of this order by either of the party. The petitioner is directed to deposit the remaining amount after adjusting the amount that has already been paid by the petitioner. Rule is made absolute to the aforesaid extent, with no order as to costs. D.S. is permitted.

-0-0-0-0-

/JVSatwara/